

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EMMANUEL OBIAGWU,

Plaintiff,

-against-

CITY OF NEW YORK; NEW YORK POLICE  
DEPARTMENT; FIRE DEPARTMENT OF  
NEW YORK; NEW YORK PRESBYTERIAN;  
P.O. BRIAN DOBBINS; DET. DANIEL  
SILVERIO; WARREN RITTER; UNNAMED  
OFFICERS; UNNAMED SECURITY  
AGENCY,

Defendants.

24 Civ. 7892 (JPC) (GS)

ORDER OF SERVICE

**GARY STEIN, United States Magistrate Judge:**

Plaintiff, who is appearing *pro se*, brings this action under federal and state law, alleging that Defendants violated his rights on August 10, 2023. Plaintiff's Complaint names as Defendants the City of New York, the New York City Police Department ("NYPD"), the New York City Fire Department ("FDNY"), New York-Presbyterian hospital ("NYP"), and individual NYPD police officers Daniel Silverio, Brian Dobbins, and Warren Ritter. (Dkt. No. 1). The caption also lists as Defendants "unnamed officers" and an "unnamed security agency." (*Id.* at 1). Based on the allegations in the Complaint, the latter refers to a security agency that operates at NYP and the former refers to FDNY personnel and to security staff and/or doctors and nurses employed by NYP and the unnamed security agency. (*Id.* ¶¶ 7, 18, 63, 65-66, 160, 177).

By order dated October 23, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees. (Dkt. No. 5). As set forth below, the Court (1) orders service on Defendants City of New York, Silverio, Dobbins, Ritter, and NYP; and (2) directs the New York City Law Department and counsel for the NYP to identify

the FDNY and NYP individuals and security agency who interacted with Plaintiff on August 10, 2023, as described in the Complaint.

## DISCUSSION

### A. Order of Service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>1</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants the City of New York, Daniel Silverio, Brian Dobbins, Warren Ritter, and NYP through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.<sup>2</sup>

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63

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<sup>1</sup>Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

<sup>2</sup> The Court does not authorize service upon the NYPD or the FDNY because “the NYPD and the FDNY are not suable entities.” *Burke v. Verizon Commun’s, Inc.*, No. 18 Civ. 4496 (PGG), 2019 WL 13146782, at \*8 (S.D.N.Y. Mar. 29, 2019); *see* N.Y. City Charter ch. 17, § 396 (“[A]ll actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise permitted by law.”).

(2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

**B. Unidentified NYP and FDNY defendants**

Under *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997), a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. In the complaint, Plaintiff alleges that employees of the FDNY, the NYP, and the unnamed security agency violated his rights, and he supplies sufficient information to permit the FDNY and the NYP to identify the FDNY individuals and the NYP staff and security agency who interacted with Plaintiff on August 10, 2023. It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the FDNY, and counsel for the NYP, must ascertain the identity of each John Doe whom Plaintiff seeks to sue here and the address where the defendant may be served. The Law Department and the NYP must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days of receiving this information, Plaintiff must file an amended complaint naming the John Doe defendant(s). The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to complete the USM-285 forms with the addresses for the named John Doe Defendants and deliver all documents necessary to effect service to the U.S. Marshals Service.

### CONCLUSION

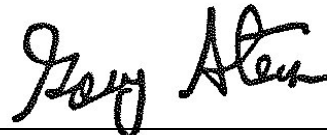
The Clerk of Court is instructed to issue a summons for Defendants City of New York, Daniel Silverio, Brian Dobbins, Warren Ritter, and New York Presbyterian; complete the USM-285 form with the address for each of these defendants; and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail a copy of this Order and the Complaint to the New York Law Department at: 100 Church Street, New York, NY 10007; and to New York Presbyterian at: 525 E. 68th Street, New York, NY 10065.

The Clerk of Court is directed to mail an information package to Plaintiff.

**SO ORDERED.**

Dated: December 19, 2024  
New York, New York

A handwritten signature in black ink, appearing to read "Gary Stein", is written over a horizontal line.

GARY STEIN  
United States Magistrate Judge

**SERVICE ADDRESS FOR EACH DEFENDANT**

1. City of New York  
100 Church Street  
New York, NY 10007
2. Officer Daniel Silverio  
33rd Precinct  
2207 Amsterdam Avenue  
New York, NY 10032
3. Officer Brian Dobbins  
33rd Precinct  
2207 Amsterdam Avenue  
New York, NY 10032
4. Officer Warren Ritter  
33rd Precinct  
2207 Amsterdam Avenue  
New York, NY 10032
5. New York Presbyterian  
525 E. 68th Street  
New York, NY 10065

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Write the full name of each plaintiff.

\_\_\_\_ CV \_\_\_\_  
(Include case number if one has been  
assigned)

-against-

**COMPLAINT**

Do you want a jury trial?

☐ Yes ☐ No

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Write the full name of each defendant. If you need more  
space, please write "see attached" in the space above and  
attach an additional sheet of paper with the full list of  
names. The names listed above must be identical to those  
contained in Section II.

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

## I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- ☐ **Federal Question**
- ☐ **Diversity of Citizenship**

### A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

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### B. If you checked Diversity of Citizenship

#### 1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, \_\_\_\_\_, is a citizen of the State of  
(Plaintiff's name)

\_\_\_\_\_  
(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

\_\_\_\_\_.

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, \_\_\_\_\_, is a citizen of the State of  
(Defendant's name)

\_\_\_\_\_  
or, if not lawfully admitted for permanent residence in the United States, a citizen or  
subject of the foreign state of

\_\_\_\_\_  
If the defendant is a corporation:

The defendant, \_\_\_\_\_, is incorporated under the laws of  
the State of \_\_\_\_\_

and has its principal place of business in the State of \_\_\_\_\_

or is incorporated under the laws of (foreign state) \_\_\_\_\_

and has its principal place of business in \_\_\_\_\_.

If more than one defendant is named in the complaint, attach additional pages providing  
information for each additional defendant.

## II. PARTIES

### A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional  
pages if needed.

First Name	Middle Initial	Last Name
Street Address		
County, City	State	Zip Code
Telephone Number	Email Address (if available)	



**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

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 First Name

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 Last Name

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 Current Job Title (or other identifying information)

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 Current Work Address (or other address where defendant may be served)

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 County, City

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 State

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 Zip Code

Defendant 2:

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 First Name

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 Last Name

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 Current Job Title (or other identifying information)

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 Current Work Address (or other address where defendant may be served)

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 County, City

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 State

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 Zip Code

Defendant 3:

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 First Name

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 Last Name

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 Current Job Title (or other identifying information)

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 Current Work Address (or other address where defendant may be served)

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 County, City

---

 State

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 Zip Code

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

### III. STATEMENT OF CLAIM

Place(s) of occurrence: \_\_\_\_\_

Date(s) of occurrence: \_\_\_\_\_

**FACTS:**

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

[illegible]

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**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

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**IV. RELIEF**

State briefly what money damages or other relief you want the court to order.

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**V. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

_____		_____	
Dated		Plaintiff's Signature	
_____			
First Name	Middle Initial	Last Name	
_____			
Street Address			
_____			
County, City		State	Zip Code
_____			
Telephone Number		Email Address (if available)	
_____			

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes   ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.



**United States District Court  
Southern District of New York**

## **Pro Se (Nonprisoner) Consent to Receive Documents Electronically**

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER<sup>1</sup> at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov) or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail.<sup>2</sup> Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

### **IMPORTANT NOTICE**

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.<sup>3</sup>

<sup>1</sup> Public Access to Court Electronic Records (PACER) ([www.pacer.uscourts.gov](http://www.pacer.uscourts.gov)) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

<sup>2</sup> You must review the Court’s actual order, decree, or judgment and not rely on the description in the email notice alone. See ECF Rule 4.3

<sup>3</sup> The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.

## CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

### Civil case(s) filed in the Southern District of New York:

**Note:** This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

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Name (Last, First, MI)

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Address

City

State

Zip Code

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Telephone Number

E-mail Address

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Date

Signature

### Return completed form to:

Pro Se Intake Unit (Room 200)  
500 Pearl Street  
New York, NY 10007